

Internal Revenue Service memorandum

date: 10 FEB 1987
to: Director, Office of Legislation, Litigation and Regulation
Attn: Ron Levy

from:

subject: CIA Draft "Intelligence Authorization Act, Fiscal Years
1988 and 1989"

This is in response to your request for comments, dated February 3, 1987, on the above-referenced bill, which includes a section which would authorize the disclosure of tax returns and return information to the FBI for counterintelligence purposes.

This provision, section 402 of the bill, is essentially the same provision as section 602 of the CIA's FY87 authorization bill, which our office commented upon,

These comments were incorporated into the General Counsel's February 21, 1986, letter to OMB (attachment). Given IRS and Treasury's objections, section 602 was dropped from the measure.

In the intervening year, staff members of IRS have met with representatives of the FBI's Intelligence Division and DOJ's Office of Intelligence Policy to explore the concerns raised in the comments referenced herein. To date, however, we are still discussing the following: (a) the intelligence community's demonstrated need for the tax information; (b) the anticipated volume of disclosures; (c) the expected relevance of different types of tax information to counterintelligence investigations; (d) why the current 6103(i) mechanisms are inadequate; (e) the extent of the redisclosures contemplated; and (f) the various uses intended to be made of the tax information. The Commissioner, in his November 26, 1986, memorandum to the General Counsel, indicated his strong agreement with the position taken by the General Counsel last year on this issue. However, at the same time, he requested that we continue to work with representatives of the foreign counterintelligence investigative community to learn the answers to the six areas of concern set forth above. In this regard, the Service is clearing a letter to the FBI, in which these concerns are raised.

We are not familiar with the President's Report on Counterintelligence and Countermeasures, in which the concept of FBI access to tax information for counterintelligence purposes is apparently endorsed. We understand that you are attempting to secure a copy of the report and will be providing us a copy. Needless to say, should the Administration decide to endorse an amendment to IRC 6103 authorizing access to tax information for counterintelligence purposes, then we would confine our concerns to the mechanics of such disclosures, i.e., court order mechanism for access to tax returns, level at which the FBI request must be made, to whom redisclosure may be made, and accompanying accounting and safeguarding provisions.

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